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Mark Sidel: Regulation of the Voluntary Sector: Freedom and Security in an Era of Uncertainty

Routledge, Abingdon, 2010, 168 pp., references, index, £19.99 (paperback) £75.00 (hardback)

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Have we gone too far in enacting laws, promulgating regulations and announcing policies that threaten freedom of association, either now or ‘in waiting’ for the future? It is a difficult question that Sidel seeks to answer, at least according to the back matter of this volume of essays on the recent history of regulation of the voluntary sector. Several of the essays in the volume have been published earlier, such as the chapter on the US and India. The addition of new essays on the UK, Canada, and the European Union make for a volume rich in details on the impacts of counter terrorism law around the world. These impacts have been profound. Following the 9/11 attacks, states around the world have broadened their surveillance of voluntary sector organizations in order to prevent future acts of terrorism. Each chapter deals with the specifics of this proliferation of counter terrorism law in a country. Cases of suspected organizations are documented, putting the reader in the shoes of a government agent trying to assess the level of terrorist threats. Along the way the reader learns a lot about the structure of the voluntary sector, the regulation of charities, and definitions of terrorism.

Sidel defends the rights of citizens to freely associate themselves, pitting that right against the efforts of governments to prevent terrorism. After the 9/11, attacks many governments have implemented new legislation that goes well beyond previous legislation. Counter terrorism financing laws that have been enacted around the world have put voluntary sector organizations under closer scrutiny and have restricted their operations. The consequences of these laws have been far reaching and sometimes unexpected, as the book illustrates. An example (not given in the book) is that academic research on philanthropy in the Netherlands came under supervision of a unit at the Ministry of Justice. The consequences discussed in the book are those that pose difficulties for voluntary sector organizations. International relief organizations working in countries where terrorists are trained or

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reside have to promise funders that they will not finance terrorism. That seems to be a fair and straightforward requirement, but it is not easy to rule out the possibility that local organizations finance other organizations or individuals that work with terrorists.

The question whether the restrictions imposed upon voluntary sector organizations by counter terrorism law go too far is impossible to answer. What is ‘too far’? The answer requires an evaluation of the costs and benefits of the restrictions, both of which are unclear. If only we knew how many acts of terrorism have been prevented by the new laws. In several chapters we read about specific organizations that have been banned or the assets of which were frozen as a result of suspected terrorism. Of course the total number of terrorist threats is unknown. In addition to the cases in the book, there is likely to be a dark number of cases that we don’t know about. Also one wonders whether the instruments available through new legislation can effectively trace the money flows that terrorists use. In the absence of a clear picture of the benefits, one wonders whether laws that forbid voluntary sector organizations to work in terrorist training areas perhaps do more harm than good. In such areas, isn’t it of the utmost importance to gain the confidence of people who feel excluded or at war? Declaring ‘no go areas’ is to give up and give room for the development of more extreme sentiments.

At the other side of the equation, that of the costs of the new legislation, the magnitude of variables is also unclear. As the book shows, new legislation has restricted the freedom of voluntary sector organizations and has increased the administrative burden. Yet it is unclear whether these changes have negatively affected the work that voluntary sector organizations have been doing—have their programs become less effective or less far-reaching? And what has the price been exactly? The potential long term impact of the new legislation that worries Sidel most strongly is that voluntary sector organizations are viewed as a potential home for terrorists while in fact they are not. Widespread distrust and occasional prosecution of naïve philanthropists creates a less pleasant society. Is this a price worth paying? The answer is very difficult—if not impossible—to give. The book ends: “We must be vigilant in observing and ensuring that these new forms of regulation do not narrow the freedom of association and voluntary sector activities that are so important in some many countries around the world” (p. 134). I’d say that the new regulation in so many countries around the world does narrow the freedom of association and voluntary sector activities. The question is whether the price is worth paying.

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